

Hand-Delivered

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CASE NUMBER 1:23-CV-270

FILED
ASHEVILLE, NC

JAN 03 2024

U.S. DISTRICT COURT
W. DISTRICT OF N.C.

MACKENZIE ELAINE BROWN

Plaintiff

v.

HENDERSON COUNTY SHERIFF'S
OFFICE, et al.

Defendants

PLAINTIFF'S
AFFIRMATION IN
SUPPORT ~~OF~~ OPPOSITION
TO DEFENDANT'S
MOTION TO DISMISS

Mackenzie Elaine Brown affirms the following under penalty of perjury:

1. I am the Plaintiff in this action, and I respectfully submit this affirmation in opposition to the Motion to Dismiss by Defendants Henderson County Sheriff's Office, Robert Jordan Warren, Michael Scott Lindsay, Crystal D. Landers, Johnny E. Duncan, Jr., Bradley R. Reese, and Brittany Nicole Maybin, filed on the 8th day of November, 2023. ^{which they}
2. Upon information and belief, the motion should be denied because of the totality of these reasons:
 - a. In view of the Statement of Facts on the following pages.

b. In view of the Memorandum of Law in Support of Plaintiff's
Opposition to Defendant's Motion to Dismiss.

c. In view of Plaintiff's Complaint.

3. Plaintiff respectfully submits that the court should deny the HCSO
Defendants' Motion to Dismiss.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: JANUARY 3, 2024

Mackenzie Elaine Brown

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Plaintiff & Pro Se Litigant
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STATEMENT OF FACTS

1. On October 1st 2021, Henderson County Sheriff's Office (HCSO) were willingly giving the public an open invitation for signage on a pink patrol car parked on display in front of their building, as part of their event. [Document 1, Page 9]. Exhibit 1.
2. The vehicle was a regular Sheriff car that was wrapped in pink film that can be peeled off, and AdventHealth is who was responsible for funding the event and who paid for the cruiser to be wrapped. [Document 1, Page 11].
3. Around 12:30 p.m., BROWN went to Henderson County Magistrate's Office to file charges for assault against the father of her child, whose baby she was 16 weeks pregnant with at the time of the assault, which had happened 4 days prior. [Document 1, Page 9].
4. When she arrived at the Sheriff's Office, she observed the pink sheriff's vehicle, and she noticed there were black Sharpies that HCSO provided laid out on it, and several indications of signage already made with the Sharpies on various parts of the car. [Document 1, Page 9].
5. After BROWN finished at the Magistrate's Office, she left and went towards the pink patrol car. There were not any rules, regulations, directions, instructions, or clues posted indicating what the public could, could not, should, or should not, write. [Document 1, Page 10].
6. As a result, BROWN (Plaintiff) wrote "12 SUX" on the midsection of the vehicle. Her signage took up a space no bigger than the palm of her hand. [Document 1, Page 10]. Exhibit 2.
7. Once BROWN had left the premises, Deputy WARREN discovered the "12 SUX" signage on the pink vehicle. He immediately went to review the camera footage and linked the

person who signed "12 SUX" to BROWN. Deputy WARREN and Deputy LINDSAY went before Magistrate OATES and took out a criminal process against Plaintiff for Injury to Personal Property, which effected a Warrant for her Arrest. Then they took pictures of the "12 SUX" signage. They "attempted to remove it and were unable to." They "had to use a piece of vinyl covering to conceal the spot on the car." [Document 1, Page 14].

8. About 1 hour later, while at her house, BROWN heard knocking on her door, and when she opened it, she was yanked out of her doorway by Deputies WARREN and LANDERS. BROWN told them, "Take it easy, I am pregnant!" [Document 1, Page 10].
9. LANDERS forced her into handcuffs with "an unnecessary amount of physical force," and accused her of resisting arrest, even though she was "very calm and submissive to them the entire time." None of the officers at the scene would explain to her why she was being handcuffed or being arrested, despite her many attempts to ask them why she was being arrested when she hadn't broken any laws. Both WARREN and LANDERS verbally abused BROWN, calling her things such as "a piece of shit." [Document 1, Page 10].
10. WARREN and LANDERS took pictures of BROWN standing handcuffed in front of the pink sheriff vehicle. [Document 1, Page 10]. Exhibit 3.
11. Then LANDERS shut BROWN in the back of the pink car and drove her to jail in it. [Document 1, Page 10].
12. Upon arrival at Henderson County Detention Facility, after BROWN was let out of the vehicle, Deputy LANDERS and Detention Facility Officer MAYBIN stood with BROWN facing the vehicle, verbally abusing her by telling her things such as, "You should feel bad about yourself for this." [Document 1, Page 11].
13. BROWN was booked into jail at 5:20 p.m., and was given a secured bond of \$2,000. [Document 1, Page 11].

14. BROWN contacted a friend to find a bail bondsman for her, and Officer MAYBIN told her that a bondsman was on the way for her. However, about 30 minutes later, MAYBIN told BROWN, "You might have to stay the entire weekend because no bondsman is willing to come get you anymore." When BROWN asked her, "Why not?", MAYBIN replied, "Because we told them what you wrote and they respect us so they don't want to come get you now." [Document 1, Page 11].
15. BROWN witnessed MAYBIN either personally answer the phone herself or direct another unknown officer to answer it, once approximately 3 bond agencies were calling the jail about Brown's release, and convincing them to not help her. [Document 1, Page 11].
16. Eventually, BROWN bonded out the same day at 8:13 p.m.
17. On October 1, 2021, at 5:40 p.m., Public Information Officer DUNCAN made a post on HCSO's Facebook page humiliating BROWN in a false light about her arrest. The Facebook post had pictures of BROWN standing handcuffed in front of the pink vehicle, with an embarrassed look on her face. [Document 1, Page 12]. Exhibit 4.
18. Based on this Facebook post, at least 20 other online news sources scraped the data from the Facebook post and rebroadcast the story, causing it to become highly publicized on a national level. [Document 1, Page 12].
19. BROWN'S family and friends contacted HCSO and requested that the Facebook post be removed but it was not removed. [Document 1, Page 13].
20. The next morning, October 2, around 9 a.m., Animal Enforcement (A.E.) Officer REESE showed up to Plaintiff's home and did an "extremely random and unexpected dangerous dog inspection" of her property, and then left a taped paper with a fine of \$550 for not answering her door. [Document 1, Page 13]. Exhibit 5.
21. A couple of weeks later, BROWN made a phone call to Animal Enforcement, speaking with an unknown officer and telling them she was unable to afford the \$550 fine and

asking them if she could have the violation removed, considering “a ‘Warning’ instead of a ‘Citation Violation’ would have been much more reasonable,” because she was sleeping when REESE came to her house and did not hear him knocking. [Document 1, Page 13–14].

22. The A.E. officer's response was that they “...can take away the \$550 charge, but we'll have to mark that as your dog's strike 2, and on strike 3, we'll have to put her down.” [Document 1, Page 14].

23. On March 24, 2022, there was a 'trial by judge' hearing at Henderson County Courthouse on the matter with COWAN presiding as the District Court Judge. [Document 1, Page 14].

24. During that court appearance, Deputies WARREN and LINDSAY gave testimonials on the witness stand. While answering the cross-examination questions that BROWN's Public Defender was asking WARREN and LINDSAY, it was acknowledged by both of them that H.C.S.O. was allowing the entire public community to add signage onto the pink vehicle for their event that day, and that there were no rules or regulations as to what could be written on it. [Document 1, Page 14].

25. Judge COWAN denied Plaintiff's Request for Dismissal, and instead convicted her of the Injury to Personal Property charge. BROWN believes COWAN did this “in effort to side with Defendant WARREN and Defendant LINDSAY.” BROWN immediately appealed the conviction to Henderson County Superior Court. [Document 1, Page 14].

26. On October 25, 2022, the Injury to Personal Property charge against BROWN was dismissed by the District Attorney's Office for the reason of NISITP (Not In The States Interest To Prosecute). [Document 16–6, Page 2].